

REMARKS

FAX RECEIVED

JUN 17 2003

TECHNOLOGY CENTER 2800

Claims 1-15 are pending herein.

I. The final rejection is premature and needs to be withdrawn according to MPEP 706.07(a) and 706.07(d).

In response to the Final Office Action dated June 4, 2003, this request to withdraw the finality of the final rejection and to issue a new Office Action is submitted because the final rejection in paper no 8, dated June 4, 2003, is premature according to MPEP 706.02(a) because no claim amendments were made in the previous response and/or no IDS was submitted. See also page 6 of the Office Action, i.e., "Applicants amendment necessitated the new grounds for rejection..."

The Examiner has also been respectfully consulted on the phone regarding this request.


II. Applicants ask for clarification of paragraph 1, at page 2 of the Office Action.

Applicant submitted an 37 CFR 1.131 affidavit which is believed to clearly detail the relevant facts to eliminate the Johnson application reference and which discusses how no public use occurred. Therefore, as the rejection states "the actual date of invention... is more than one year" which is irrelevant to the discussion, applicant respectfully asks what further information the Examiner precisely requires from the applicant to accept their 37 CFR 1.131 affidavit?

Please call the undersigned for any reason to expedite prosecution of this application.

Respectfully submitted,  
REED SMITH, LLP

June 17, 2003  
599 Lexington Avenue, 29<sup>th</sup> floor  
New York, NY. 10022  
Tel. (212) 521-5400

By:   
Daniel P. Lent, Reg. No. 44,867